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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,325	04/01/2004	Stephan Courcambek	2269-19-3	1111
996 7590 01/03/2011 GRAYBEAL JACKSON LLP 400 - 108TH AVENUE NE SUITE 700 BELLEVUE, WA 98004				
EXAMINER YALEW, FIKREMARIAM A				
ART UNIT 2436		PAPER NUMBER		
MAIL DATE 01/03/2011		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/817,325

Applicant(s)

COURCAMBECK ET AL.

Examiner

Fikremariam Yalew

Art Unit

2436

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-5 and 18-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Nasser Moazzami/
Supervisory Patent Examiner, Art Unit 2436

Continuation of 11. does NOT place the application in condition for allowance because: Continuation of 11. does NOT place the application in condition for allowance because: In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would modify in order to provide a method and system for limiting the interference of a background process with a foreground process. Applicant argued that the combination of Sinha and Douceur does not explicitly teach or suggest "calculating, on each task change between a first program module switching from foreground to background and a second program module switching from background to foreground, a signature of at least part of the second program module instruction lines". The examiner disagree and points out the combination of Sinha and Douceur does not explicitly teach calculating, on each task change between a first program module and a second program module of CPU (See Sinha col.7 line 67 through col.8 line 3 and col.14 lines 18-24 and claims 1-2 (i.e., execution identifying and first & second program module having distinct execution-identifying signature)), a signature of at least part of the program module instruction lines and each signature being associated with a program identifier (See col.4 lines 28-34 and col.13 lines 33-39 (i.e., generate unique identifier for program module)). The combination of Sinha and Douceur teach switching from foreground to background and switching from background to foreground, a signature of at least part of the second program module instruction lines (See Douceur 0005-0008,0036,0064-0065 and Fig 5 (i.e., interference of a background process with a foreground process)). Applicant also argued that "a processor of multitask execution of several programs, each of the several programs being different from each other exploiting a table of correspondence, each correspondence being associated with an identifier of the involved program, comprising means for calculating a current signature, and means for comparing this signature with the identifier of the program stored in the correspondence table". The combination of Sinha and Douceur teach a processor of multitask execution of several programs, each of the several programs being different from each other exploiting a table of correspondence, each correspondence being associated with an identifier of the involved program, comprising means for calculating a current signature, and means for comparing this signature with the identifier of the program stored in the correspondence table (See Sinha col.7 line 67 through col.8 line 3 and col.14 lines 18-24). The combination of Sinha and Douceur also teaches each of the several programs being different from each other (See Douceur 0005-0008,0019,0038 and Fig 5). The applicant argued that the combination of Sinha and Douceur does not teach or suggest "executing, at CPU, a plurality of programs simultaneously, each program having a unique signature calculated when first executed; wherein each program includes currently-executing tasks that change between a foreground and a background at the CPU; calculating, on each task change, a new signature of at least part of program instruction lines for the program associated with the task; and checking the conformity of new signature with the unique signature". The examiner disagree and points out the combination of Sinha and Douceur teaches executing, at CPU, a plurality of programs simultaneously, each program having a unique signature calculated when first executed (See Sinha col.4 lines 28-34 and col.13 lines 33-39 (i.e., generate unique identifier for program module)); wherein each program includes currently-executing tasks that change between a foreground and a background at the CPU (See Douceur 0005-0008,0036,0064-0065 and Fig 5 (i.e., interference of a background process with a foreground process)); calculating, on each task change, a new signature of at least part of program instruction lines for the program associated with the task (See Sinha col.7 line 67 through col.8 line 3 and col.14 lines 18-24 (i.e., execution identifying)); and checking the conformity of new signature with the unique signature (See Sinha col.10 lines 11-15 and col.14 lines 18-24 (i.e., comparing integrity signatures)).